

## **Appendix T Kodiak Island Borough Coastal Management Plan May 2007**



This appendix indicates the additions and deletions to the proposed enforceable policies and designated areas from the August 2006 version of the Kodiak Island Borough (KIB) Coastal Management Plan. Chapter 4 of the plan incorporates the changes indicated in this appendix.

### **Chapter 4: Enforceable Policies – With Changes from August 2006 Draft**

#### **4.1 Introduction**

This chapter establishes the enforceable policies for the Kodiak Island Borough (KIB) coastal management plan (CMP). Section 4.2 of this chapter includes a discussion of the importance of enforceable policies. Section 4.3 includes a description of the criteria for enforceable policies resulting from changes made to ACMP statutes in 2003 and regulations in 2004. Section 4.4 provides the enforceable policies. Section 4.5 provides a general description about area designations made under 11 AAC 114.250. Lastly, Section 4.6 includes definitions of terms used in this chapter.

Two appendices provide supplemental information for this chapter. Appendix B provides a justification for the designated areas and the enforceable policies in the final plan. Appendix C includes advisories, formerly called administrative policies that establish expectations regarding commitments of the KIB and expectations for state and federal agencies and project applicants.

#### **4.2 Importance of Enforceable Policies**

Projects that occur in the coastal zone that require permits that trigger a consistency review must be consistent with the enforceable policies of the KIB. As well, projects on federal land within the borough or in the adjacent federal waters of the Outer Continental Shelf (OCS) must be consistent with enforceable policies if the project activities would affect resources or uses of the coastal zone. Activities proposed by a federal agency, such as an oil and gas lease sale, must be consistent to the maximum extent practicable with the KIB policies no matter where the activities occur if there will be an effect to a coastal use or resource.

Applicants and state and federal agencies are encouraged to refer to the advisories, formerly known as administrative policies, in Appendix C. While not enforceable, the advisories provide guidance for applicants, state and federal agencies and the KIB. Advisories outline the commitments of the KIB to its residents for consultation and coordination. As well, they provide direction to applicants and state and federal agencies regarding proper consultation procedures. The advisories also highlight other requirements at the borough, state or federal level that an applicant must follow.

### 4.3 Criteria for Enforceable Policies

The Alaska State Legislature passed legislation in 2003 that established new criteria for district enforceable policies. Specifically, AS 46.40.070(a) states that the Alaska Department of Natural Resources (DNR) shall approve the revised plan if it meets statutory and regulatory requirements including enforceable policies that:

- are clear and concise regarding the requirements, the activities and the persons affected by it,
- use precise, prescriptive and enforceable language,
- do not address matters authorized by state or federal law unless it is a “matter of local concern.”

A “matter of local concern” is defined as a specific *coastal use or resource* that is sensitive to development, not adequately addressed by state or federal law, and of unique concern to the coastal district as demonstrated by local usage or scientific evidence.

In addition, an enforceable policy may not address aspects of an activity regulated under Alaska Department of Environmental Conservation (DEC) statutes or regulations.

Regulations developed by the DNR in 2004 and 2005 set out additional criteria for coastal district policies. Most importantly, these regulations restrict district enforceable policies to *uses and activities* identified in specific statewide standards and eight types of designated areas called “subject uses” (11 AAC 114.270). Table 4-1 lists these subject uses.

*Table 4-1: Subject Uses for Which Policies May Be Written*

<b>Statewide ACMP Standard</b>	<b>Designated Area</b>
Natural Hazards (11 AAC 112.210)	Natural Hazards Area (11 AAC 250(b))
Coastal Access (11 AAC 112.220)	Recreation (11 AAC 250(c))
Coastal Development (11 AAC 112.200)	Tourism (11 AAC 250(d))
Energy Facilities (11 AAC 112.230)	Major Energy Facilities (11 AAC 250(e))
Transportation Routes and Facilities (11 AAC 112.280)	Commercial Fishing & Seafood Processing (11 AAC 250(f))
Subsistence (11 AAC 112.270)	Subsistence (11 AAC 250(g))
Sand and Gravel Extraction (11 AAC 112.260)	Important Habitat (11 AAC 250(h))
Utility Routes and Facilities (11 AAC 112.240)	History and Prehistory (11 AAC 250(i))

A district may establish a policy for six statewide standards without designating an area.

- **Coastal Development:** for uses and activities in or along coastal waters anywhere in the coastal area (11 AAC 114.200),<sup>1</sup>
- **Coastal Access:** to increase public access to, from and along coastal waters (11 AAC 114.220),
- **Utility Routes and Facilities:** for routes and facilities occurring anywhere in the coastal area (11 AAC 114.240),
- **Sand and Gravel Extraction:** for sand and gravel operations in coastal waters, intertidal areas, barrier islands, and spits (11 AAC 114.260),
- **Transportation Routes and Facilities:** for routes and facilities occurring anywhere in the coastal area (11 AAC 114.280), and
- **Energy Facilities:** for the siting of major energy facilities anywhere in the coastal area (11 AAC 112.230).

District enforceable policies may address a use or activity identified in eight types of designated areas identified in 11 AAC 114.250(b) – (i). These policies may only address uses or activities occurring in the designated area, and the designated area may only be created within the district’s coastal zone (i.e., it may not include federal land or federal waters of the coastal area). Five of these types of designated areas are also addressed and qualified by a statewide standard:

- **Important Habitat Areas:** (statewide Habitats standard – 11 AAC 114.300),
- **Natural Hazard Areas:** (statewide Natural Hazards standard – 11 AAC 114.210),
- **Subsistence Use Areas:** (statewide Subsistence standard – 11 AAC 114.270),
- **Energy Facilities:** (statewide Energy Facilities standard (11 AAC 112.230), and
- **Historic and Archaeological Resources:** (statewide Historic, Prehistoric and Archaeological Resources standard (11 AAC 112.320).

Three other types of designated areas identified in 11 AAC 114.250 have no corresponding statewide standard.

- **Recreational Use Areas:** for any area within the coastal zone receiving significant use or the potential for recreational use because of physical, biological or cultural features,
- **Tourism Use Areas:** for any area within the coastal zone receives or has the potential to receive visitors from cruise ships, floatplanes, helicopters, busses or other means of conveying groups, and
- **Areas Suitable for Commercial Fishing and Seafood Processing Facilities:** for any area within the coastal zone.

The justification section that follows each policy or group of policies serves several functions. First, it identifies the subject use. Second, for matters regulated by state or federal agencies, the justification describes why the state or federal law does not adequately address local concerns.

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<sup>1</sup> “Coastal waters” apply only to waters with a measurable amount of salt water. “Coastal area” includes all areas within a coastal district’s coastal zone, including federal land and adjacent federal waters in the Outer Continental Shelf. The term “coastal boundary” includes only non-federal land within the state’s coastal zone.

## **4.4 Enforceable Policies**

### **B. Coastal Development**

#### **Policy B-1: Multiple Use**

- a. Structures or dredged or fill material placed in coastal waters shall be designed to minimize the need for duplicative facilities.
- b. This policy is established for the Coastal Development standard (11 AAC 112.200) subject use. It applies to all uses and activities related to siting of facilities in or adjacent to coastal waters and placement of dredged or fill material into coastal waters.

#### **Policy B-3: Dredge and Fill Activities**

- a. An applicant for a project that will place structures or discharge dredge or fill material into coastal waters must include in the project description measures that will limit the extent of direct disturbance to as small an area as possible.
- b. This policy is established for the Coastal Development standard (11 AAC 112.200) subject use. It applies to all uses and activities related to placement of structures in or adjacent to coastal waters and placement of dredged or fill material into coastal waters.

### **C. Natural Hazards**

#### **Policy C-1: Erosion and Landslides**

- a. Proposed development and resource extraction activities in designated erosion hazard areas shall:
  - 1. Minimize removal of existing vegetative cover, and
  - 2. Stabilize soils and re-vegetate with native species for areas where development necessitates removal of vegetation, unless re-vegetation activities would cause more damage.
- b. Gravel extraction shall not be located in areas designated as landslide hazard areas..
- c. Subsection a applies to areas designated as erosion hazards under 11 AAC 114.250(b) as described in Section 4.5.2. Subsection b applies to areas designated as landslide hazard areas under 11 AAC 114.250(b) as described in Section 4.5.2.

### **D. Coastal Habitats and Resources**

#### **Policy D-5: Wind Generation and Bird Habitat**

- a. The applicant shall incorporate measures into the project description regarding the siting of wind generation projects to minimize mortality to birds. These measures shall include, but are not limited to, installation of turbines on the tallest towers practicable for the site, configuration of

towers to reduce the likelihood of bird strikes, and use of tubular towers, fully enclosed nacelles or other appropriate technology that has been demonstrated to reduce bird mortality from wind turbines.

b. This policy applies to uses and activities related to the Energy Facilities Standard 11 AAC 112.230.

## **H. Recreation**

### **Policy H-1: Protection of Recreation Resources and Uses**

a. On public lands and waters used for recreation activities within designated recreation areas or on private lands and waters within designated recreation areas where the landowner has granted formal permission for recreational activities, non-recreational projects and activities shall be located, designed, constructed and operated to avoid significant adverse impacts to recreation resources and activities, including access and scenic views unless a comparable alternative recreational opportunity can be provided that would not decrease the quality of the recreation experience in another area.

b. Access through water bodies shall be maintained.

1. Fences shall not be constructed across streams,
2. Bridges must be constructed at least four feet above the ordinary high water mark,
3. Structures, other than weirs, shall not impede travel by watercraft along waterways, and
4. Weirs shall be constructed to allow for small boat passage over or around the structures, and warning signs shall be placed at least 25 yards upstream of the weirs.

c. This policy applies to areas designated for recreation under 11 AAC 114.250(c) as described in Section 4.5.1, and it applies to all uses and activities that could affect recreational values described in the resource inventory and analysis.

### **Policy H-4: Impacts to Recreational Uses**

a. Activities in designated recreation areas must avoid, minimize or mitigate impacts to recreational uses as listed in Section 4.5.1.

b. This policy applies to areas designated for recreation under 11 AAC 114.250(c) as described in Section 4.5.1, and it applies to all uses and activities that could affect recreational values described in the resource inventory and analysis.

## **I. Archaeological and Historic Resources**

### **Policy I-1: Consultation and Surveys**

a. For projects within the historic and prehistoric designation area, the applicant shall submit with the consistency review packet an assessment of potential impacts to historic and prehistoric resources and a plan for the protection of those resources. As part of the assessment, the applicant shall consult with the KIB, tribal entities and the Alutiiq Museum.

b. This policy is established for areas designated for the study, understanding and illustration of history and prehistory under 11 AAC 114.250(i) as described in Section 4.5.4. It applies to all uses and activities that could affect these resources.

### **Policy I-2: Resource Protection**

a. For projects within the historic and prehistoric designation area, if previously undiscovered artifacts or areas of historic, prehistoric or archaeological importance are encountered during development, an artifact curation agreement will be developed between the landowner, appropriate state or federal preservation authorities, and the curation facility if artifacts are discovered on the project site.

b. This policy is established for areas designated for the study, understanding and illustration of history and prehistory under 11 AAC 114.250(i) as described in Section 4.5.4. It applies to all uses and activities that could affect these resources.

## **K. Mineral Extraction and Processing**

### **Policy K-1: Siting of Material Sources**

a. Sources of sand and gravel shall be authorized in the following priority:

1. Upland sites, including river terraces above historic high water,
2. Areas of low habitat value, including river bars,
3. Streams which do not provide fish habitat, and
4. Other habitats.

b. This policy applies to the sand and gravel standard (11 AAC 112.260).

## **4.5 Designated Areas**

This section describes the areas designated by the KIB under 11 AAC 114.250. The federal Coastal Zone Management Act does not include provisions for states or coastal districts to designate federal lands, and as a result, no federal lands are included in any of the areas designated by the KIB under 11 AAC 114.250. As provided in 11 AAC 110.015, however, a project requiring a federal consistency determination or federal consistency certification “within or affecting land or water uses or natural resources of the coastal zone is subject to state standards in 11 AAC 112.200 – 11 AAC 112.990 and to applicable enforceable policies of a district coastal management plan approved under 11 AAC 114.

These designations do not exclude other uses from these areas. Because of restrictions in 11 AAC 114.250 and 11 AAC 114.270, a district must designate areas before establishing enforceable policies for certain matters.

#### 4.5.1 Recreation Areas

The KIB designates all non-federal lands and waters in the coastal zone as recreation areas. The specific attributes for this designation are indicated in Section 5.12.2 and 5.12.3. District Enforceable Policies H-1, H-3 and H-4 apply within the designated area. The boundary maps in Appendix A indicate the coastal zone boundary and the location of federal lands.

Uses and activities that could be proposed for areas designated for recreation include: Subsistence harvests, hunting and fishing, fish and wildlife enhancement, cultural uses, commercial fishing, independent backcountry recreation, hiking, off-road vehicle use, commercial recreation, tourism, development of transportation and utility routes and facilities, sand and gravel extraction, onshore and offshore mining, onshore and offshore oil and gas exploration and development, housing and subdivisions, and remote camps.

#### 4.5.2 Natural Hazard Areas

The KIB designates the following natural hazards areas under the authority of 11 AAC 114.250(b).

- **Tsunami Hazard:** The KIB designates the area from the mean-high water mark to an elevation of 21 feet above the mean lower low water mark within the City of Kodiak and with Womens Bay as a Tsunami Hazard Area excluding federal land. The statewide Natural Hazard Areas standard (11 AAC 112. 210) applies to this designated area.
- **Earthquake Hazard:** The KIB designates the entire coastal zone, excluding federal land, as an Earthquake Hazard area. The statewide Natural Hazard Areas standard (11 AAC 112.210) applies to this designated area.
- **Erosion Hazard:** The KIB designates the area 20 feet on either side of rivers and streams (from the mean high water mark) and the area 50 feet from marine waters (from the mean high water mark) as erosion hazard areas. Federal lands are excluded from this designation. The statewide Natural Hazard Areas standard (11 AAC 112.210) and District Enforceable Policy C-1 apply to this designated area.
- **Flood Hazard:** The KIB designates the area within the 10-foot contour on either side of streams and rivers (from the mean high water mark) and the area within the 10-foot contour line inland from coastal waters (from the mean high water mark) as a flood hazard area. Federal lands are excluded from this designation. The statewide Natural Hazard Areas standard (11 AAC 112.210) applies to this designated area.
- **Landslides:** The KIB designates all slopes greater than 50% (27 degrees) in the coastal district as natural hazard areas for landslides. Federal lands are excluded from this designation. The statewide Natural Hazard Areas standard (11 AAC 112.210) applies to this designated area.

Uses and activities that could be proposed for areas designated for natural hazards include: Subsistence harvests, hunting and fishing, fish and wildlife enhancement, cultural uses, commercial fishing, independent backcountry recreation, hiking, off-road vehicle use, commercial recreation, tourism, development of transportation and utility routes and facilities,

sand and gravel extraction, onshore and offshore mining, onshore and offshore oil and gas exploration and development, housing and subdivisions, and remote camps.

### **4.5.3 Important Habitat Areas**

The Important Habitat Areas proposed by the KIB were not recommended for approval in the DNR Final Recommendation to the Commissioner. The KIB withdrew this designation from the final plan.

### **4.5.4 Historic and Prehistoric Resource Areas**

The KIB designates all non-federal land within its coastal zone as important to the study and understanding of historic and prehistoric resources. As described in the Resource Inventory, archaeological resources could be found anywhere in the borough. District Enforceable Policies I-1 and I-2 apply to this designated area.

Uses and activities that could be proposed for areas designated for historic and prehistoric resources include: Subsistence harvests, hunting and fishing, fish and wildlife enhancement, cultural uses, commercial fishing, independent backcountry recreation, hiking, off-road vehicle use, commercial recreation, tourism, development of transportation and utility routes and facilities, sand and gravel extraction, onshore and offshore mining, onshore and offshore oil and gas exploration and development, housing and subdivisions, and remote camps.

### **4.5.5 Commercial Fishing and Seafood Processing Facilities**

The areas designated as suitable for commercial fishing and seafood processing facilities were not recommended for approval in the DNR Final Recommendation to the Commissioner. The KIB withdrew this designation from the final plan.

### **4.5.6 Subsistence Areas**

The KIB designates the areas described on the maps in Appendix Q as subsistence use areas. These designations include all nonfederal lands and waters in the subsistence use areas designated on the maps and include 10 types of subsistence areas: Elk, salmon, trapping, waterfowl, moose, bear and sheep, deer, caribou, freshwater fish, marine fish, marine invertebrates, marine mammals, crab, and vegetation.

Subsistence use information for these designations comes from a 1985 study (Wright et al. 1985). Species included in these designations include: King salmon, red salmon, silver salmon, chum salmon, pink salmon; Dolly Varden, whitefish, lake trout, rainbow/steelhead, Arctic grayling; Northern pike, burbot, blackfish, longnose sucker, smelt; Halibut, sole, flounder, herring, capelin, cod, bass, snapper; harbor seal, spotted seal, ringed seal, bearded seal, sea lion, walrus, behukha, other whales; moose, caribou, black bear, brown bear; porcupine, Arctic hare, snowshoe hare, marmot, parky squirrel, beaver, red fox, Arctic fox, wolf, coyote; river otter, wolverine, mink, martin, weasel, lynx muskrat; ducks (mallard, gadwall, pintail, green-winged teal, shoveler, wigeon, greater scaup, goldeneyes, bufflehead, oldsquaw, harlequin, Steller's eider, common eider, King eider, scoters, and mergansers), geese (Canada goose, brant, emperor goose, white-fronted goose, snow goose), swan, Sandhill crane, ptarmigan, spruce grouse, bird eggs; clams and



mussels (razor, butter, and softshell clams, cockles, emmas, and bidarkis), crabs (king, tanner, Dungeness and horse crabs), limpits, snails, octopus, sea urchins, shrimp, herring spawn on kelp; salmon berries, blue berries, black berries, low-bush cranberries, high-bush cranberries, huckleberries, strawberries; vegetables (wild celery, wild spinach, fiddlenhead ferns), herbs (stinkweed, tundra tea), basket grass, firewood (spruce, birch, cottonwood, alder, and willow) (Wright et al. 1985).<sup>2</sup>

As noted in the study, the information is incomplete and only represents use between 1963 and 1983. As with any subsistence study, the data only reflect subsistence use of those people interviewed for the study, and it should be noted that subsistence users often are reluctant to report on use patterns by other subsistence users. The 1985 study notes that subsistence use areas change throughout time in response to the distribution of species, changing needs for harvesting a particular species, changing technology, harvest limits, and other factors.

Due to the incomplete nature of the mapping data available for designated areas, it may be necessary to designate additional subsistence use areas during consistency reviews under the provisions of 11 AAC 112.270. When evidence indicates there is a customary and traditional subsistence use in a project area that is not represented on the maps in Appendix Q, the KIB shall request the coordinating agency extend the review by the deadline to request additional information.

Subsistence uses involve much more than the actual harvest of resources including preparation for subsistence harvests, transportation to and from harvest areas, and other uses included in the definition of subsistence uses.<sup>3</sup>

Uses and activities that could be proposed for areas designated for subsistence include: Subsistence harvests, hunting and fishing, fish and wildlife enhancement, cultural uses, commercial fishing, independent backcountry recreation, hiking, off-road vehicle use, commercial recreation, tourism, development of transportation and utility routes and facilities, sand and gravel extraction, onshore and offshore mining, onshore and offshore oil and gas exploration and development, housing and subdivisions, and remote camps.

Residents use areas across the borough for subsistence hunting and fishing and plant collection. This use ranges from offshore fishing and marine mammal harvest to upland areas used for hunting deer, elk, bear and mountain goats.

## 4.6 Definitions

The definitions in this section apply throughout the KIB CMP, unless an alternative or contrary meaning is expressly provided. Any word or term not defined below or otherwise defined herein

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<sup>2</sup> Semicolons are used in this list to separate the different types of subsistence uses identified in the 1985 study (Wright et al. 1985). Table 2 separates the different types of subsistence uses, but these types are not labeled.

<sup>3</sup> 11 AAC 112.990(38) adopts the definition for subsistence uses in AS 16.05.940: “‘subsistence uses’ means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, clothing, tools or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, ‘family’ means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis. “

shall be used as it is defined in AS § 46.40.210, 11 AAC 110.990, 11 AAC 112.990 or 11 AAC 114.990. Any terms not defined in this section or in the ACMP regulations has the meaning of common or standard usage. The following definitions shall apply:

- 1) “active fault” means fault that has displacement during the Holocene (past 11,000 years) or a fault that generates seismicity (earthquakes) recorded on seismographs.
- 2) “active floodplain” means an area that shows evidence of periodic inundation by water such as a lack of vegetation.
- 3) “adverse impacts” include individual and cumulative effects that would negatively affect a coastal use or resource.
- 4) “affected communities” means communities in the KIB that can be reasonably expected to receive an impact from the project.
- 5) “alluvial channel streams” means streams or rivers with channels in unconsolidated sediments including silt, sand, and gravel.
- 6) “annual floodplain” means the channel of a stream or river and adjacent areas that during a normal year are wetted by stream flow at least once.
- 7) “applicant” means the person who submits an application for a consistency review, and that person's successors in title or interest.
- 8) “Assembly” means the KIB Assembly.
- 9) “avoid or minimize” has the meaning in 11 AAC 112.990 “means a process of avoiding adverse impacts to the maximum extent practicable and, if avoidance is not practicable, minimizing impacts where practicable.”
- 10) “bar scalping” means an in-channel mining method where gravel is extracted by scraping the surface of channel bars during low flow conditions.
- 11) “bar excavation” means an in-channel mining method where a pit is excavated at the downstream end or interior of a channel bar during low flow conditions.
- 12) “base flow” means the discharge of a stream or river from groundwater sources (springs and in-channel seepage) independent of storm runoff or snowmelt. Base flow is generally the lowest water level of a perennial stream or river during the driest part of the year.
- 13) “beach” has the meaning in 11 AAC 114.990 “means an area affected by wave action directly from the sea.”
- 14) “bedload” means sand, gravel, and boulders that are moved by a stream along the bed of the channel by rolling, sliding, or bouncing. Bedload constitutes the coarse part of the load of the stream or river.
- 15) “biologically and significantly productive” means a habitat that is necessary for the continued health or survival of a population of a species. For highly migratory species, such as

caribou, this habitat may cover a broad area due to the need for a wide range to prevent overgrazing.

- 16) "borough" or "KIB" means the Kodiak Island Borough of the State of Alaska.
- 17) "business day" means any calendar day, Monday through Friday, exclusive of borough holidays.
- 18) "channel-wide in-stream mining" means removal of gravel from across the entire active channel when a large part of the channel is dry during periods of low flow.
- 19) "coastal water" has the meaning in 11 AAC 112.990 "means those waters, adjacent to shorelines, that contain a measurable quantity or percentage of sea water, including sounds, bays, lagoons, ponds, estuaries, and tidally influenced waters."
- 20) "commercial use" means use involving the storing, wholesaling, retailing, manufacturing or rental of any article, service or substance for cash, trade or any form of compensation, and supporting activities, but excludes such uses when they are conducted in a dwelling unit or accessory building to a dwelling unit and such uses are clearly subordinate to the primary use of the dwelling for residential purposes;
- 21) "commercial fishing facility or facilities" means any facility that is used to prepare for or participate in commercial fishing including boats, nets and onshore facilities.
- 22) "commercial recreational use" means use involving the commercial provision of services including overland, air, or water travel, in support of any of the following: hiking, fishing, hunting, sightseeing, or similar activities. The term includes the activities of guides, transporters, outfitters and commercial air charters for recreational purposes.
- 23) "compatible" means uses that can occur in the same time and place or adjacent to each other without significantly impeding the ability to conduct the uses.
- 24) "consistency recommendation" means the formal comment by the KIB as to whether a proposed use is consistent with the standards of the Alaska Coastal Management Program including the standards in 11 AAC 112 and the applicable policies of KIB CMP, which is submitted by the KIB to the coordinating state agency.
- 25) "cumulative impacts" has the same meaning as in 11 AAC 110.990.
- 26) "discharge" means the volume of water flowing past a point in a stream over a certain amount of time, usually measured in cubic feet per second (cfs).
- 27) "dismantlement, restoration and rehabilitation" means efforts to return a disturbed site to its pre-project conditions including restoration of habitat functions.
- 28) "dry-pit channel mining" means gravel mining by excavating pits in active channel gravel deposits when the channel is dry.
- 29) "estuary" has the meaning in 11 AAC 112.990 "means a semi-enclosed coastal body of water that has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage."

- 30) “estuarine waters” means waters associated with an estuary.
- 31) “existing use” means the use or uses made of a site as of the date of enactment into Alaska law of this revised CMP.
- 32) “facility or facilities” means a structure, a boat, a floating facility, or an area of land that facilitates or makes possible some activity.
- 33) “federal consistency determination” has the meaning in 11 AAC 110 (29).
- 34) “function” means an environmental or physical property or process that supports a coastal resource or use.
- 35) “fault” means a discontinuity or break in the earth’s crust with displacement (offset) of the rocks on either side of the discontinuity; displacements on faults produce earthquakes.
- 36) “ground failure” means loss of strength and movement of the ground usually associated with strong shaking of water saturated unconsolidated soil or sediment.
- 37) “groundwater” means water contained in porous rock or sediment below the water table.
- 38) “habitat” means areas used by fish, wildlife or plants including, air, water and land.
- 39) “high water mark of record” (HWM) means a 1.5-inch-diameter metal washer attached with a lag bolt to a building or a utility pole, placed at the water level of the highest recorded flood. The washer is stamped COE-HWM and painted fluorescent red at the time of installation. A HWM may or may not be at the level of the 100-year flood.
- 40) “important habitat” is defined in 11 AAC 112.300(c).
- 41) “important use” in the context of 11 AAC 114.114(g) means subsistence use by a resident of the district in an area that occurs on a regular basis, sometimes close to a community, or on an occasional basis when specific subsistence resources are not available closer to a community.
- 42) “influent channel” means a stream channel that is perched above the water table and loses flow by infiltration of channel water into the groundwater.
- 43) “in-stream gravel traps” means barriers or excavations placed in active channels to impede sediment transport and deposit gravel for mining. In-stream gravel traps intercept bed load and can alter stream hydrology and sediment transport processes.
- 44) “land” includes submerged land, wetlands, uplands, and interests therein, unless specifically excluded.
- 45) “large project” means a large-scale development activity that has the potential to significantly impact coastal resources including oil and gas exploration and development projects and mining exploration and development projects or other large-scale projects.
- 46) “lateral spreading” means cracking, fissuring, and horizontal movement of near surface soils or sediments above an underlying layer that has liquefied during strong shaking.

- 47) "littoral" means the near shore zone of the ocean characterized by breaking waves and longshore sediment transport.
- 48) "liquefaction" means the loss of strength and fluidization of water saturated fine grained unconsolidated soil and sediment due to strong shaking during earthquakes.
- 49) "load" means the sediment including clay, silt, sand, gravel, and boulders transported by a stream or river at any given flow condition including the bed load moved along the bed of the channel and suspended load carried in the water column.
- 50) "local government" means any borough, city or tribal government.
- 51) "major facility" or "major project" means a large-scale development activity that has the potential to significantly impact coastal resources.
- 52) "material" means non-negligible, definite, and demonstrable.
- 53) "Mayor" means the mayor of the KIB.
- 54) "maximum extent" means consideration of all reasonable alternatives that would avoid or minimize adverse impacts.
- 55) "minimize," "minimizing," and "minimized," mean to limit or reduce adverse impacts to the smallest amount, extent, duration, size, or degree by selecting the option which uses the most effective method of doing so without violating sound engineering practices or causing other adverse environmental impacts, social costs, or economic costs of unreasonable magnitude in light of the benefit to be gained.
- 56) "mitigate" means onsite or offsite rehabilitation or restoration of adverse project impacts to a coastal use or resource.
- 57) "natural hazards" has the meaning in 11 AAC 112.990(15).
- 58) "ordinary high water mark" means the mark along the bank or shore up to which the presence and action of the nontidal water are so common and usual, and so long continued in all ordinary years, as to leave a natural line impressed on the bank or shore and indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics.
- 59) "permit" means a permit, lease, authorization, license, approval, or any other authorization necessary for the completion of a project or a discrete phase of a project.
- 60) "person" means, without limit, any natural person, corporation, partnership, organization or association, whether incorporated or otherwise, whatsoever.
- 619) "petroleum" and "petroleum products" mean the same as the definition of "petroleum" found at AS § 46.03.450.
- 62) "Planning Commission" or "Commission" means the KIB Planning and Zoning Commission.

- 63) “plan” or “this plan” means the KIB Coastal Management Plan.
- 64) “practicable” has the meaning in 11 AAC 112.990 “means feasible in light of overall project purposes after considering cost, existing technology, and logistics of compliance with the standard.”
- 65) “public need” means a documented need of the general public and not that of a private person. When determining whether there is a material need of the general public, the KIB shall specifically consider the following factors, among others that may apply to particular circumstances:
- a) whether the use improves the delivery of water, sewer, health or other community services;
  - b) whether the use provides or materially contributes to lower-cost fuel or power;
  - c) whether the use provides local employment;
  - d) whether the use is related to or supports Alutiiq culture and values; and
  - e) whether the use generates local government revenues greater than the demand for local government expenditures by the use.
- 66) “reasonably foreseeable” has the meaning in 11 AAC 110.990 “means a fact-specific determination of whether something can reasonably be foresee; “reasonably foreseeable” does not include remote or speculative consequences.”
- 67) "recreational activities" means a use undertaken primarily for pleasure, relaxation, amusement, or refreshment of mind or body, as distinguished from subsistence or commercial recreational uses. Recreational activities include hiking, camping, ATV use, sport fishing and hunting, boating, and wildlife viewing. It does not include permanent construction, but may include temporary construction, such as tent platforms and lean-tos.
- 68) "residential use" means a use involving the occupation of a building or structure for living, cooking, sleeping, and accessory uses other than on a temporary basis.
- 69) "resource extraction" means a use involving the removal for commercial purposes of native vegetation (including timber), topsoil, fill, sand, gravel, rock, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics.
- 70) “shorelines” mean the area immediately adjacent to lakes, streams and coastal waters.
- 71) “significant adverse impacts” means a material negative alteration or disturbance of the resource to be protected by the policy or, to disturb or cause a material negative alteration to the ability of a person to engage in the use to be protected by the policy.
- 72) “skimming” means another term for bar scalping.
- 73) "state consistency determination" means the formal determination by the coordinating state agency of whether a proposed use is consistent with the enforceable policies of the Alaska Coastal Management Program including the statewide standards and district enforceable policies.
- 74) “structure" means anything constructed by humans which is placed, constructed, erected or located on or under the ground, or attached to something fixed to the ground, such as a floating

structure anchored to submerged ground, regardless of size, purpose or whether it is temporary or permanent, including:

- a) A building;
- b) A tower, antenna, pole or similar structure;
- c) Drilling or excavating apparatus, pipelines, pump stations, conveyor belt and similar structures, but not including lightweight, non-permanent apparatus or construction equipment;
- d) A foundation, or gravel pad;
- e) A street, road, ice road, ice pad, parking area, or storage area.

75) “strong ground motion” means significant shaking of the ground during an earthquake.

76) “subsidence” means sudden lowering of the elevation or level of the ground surface during some earthquakes.

77) “surface faulting of surface fault rupture” means the displacement or offset of the ground surface on a fault that intersects the ground surface during an earthquake. Displacement can be horizontal or vertical or both.

78) “suspended sediment load” means the total volume of fine soil and rock particles carried by a stream or river suspended in the water column.

79) “temporary use” means use of less than 30 consecutive days.

80) “transitional and intertidal areas” means areas subject to periodic or occasional inundation by tides, including coastal floodplains, storm surge areas, tsunami and hurricane zones, and wash over channels.

81) “tsunami” means a long-wavelength water wave or series of waves caused by sudden vertical movement of the sea floor during an earthquake, volcanic eruption, or submarine landslide.

82) “use” means any development or other activity on a parcel of land.

83) “water table” means the upper level beneath the ground surface of saturation by water in porous rock or sediment.

84) “wet-pit channel mining” means gravel mining by excavating pits in the active channel of a stream below the water surface.